

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION**

**BRITTEN G. SMITH**

**PLAINTIFF**

**VS.**

**CIVIL ACTION: 1:17cv170-LG-RHW**

**MIKE HAULER, *et al.***

**DEFENDANTS**

**REPORT AND RECOMMENDATION**

This *pro se* prisoner civil rights case came before the Court for a duly noticed *Spears/omnibus* hearing scheduled for Wednesday, April 11, 2018 at 9:30 a.m., before United States Magistrate Judge Robert H. Walker in Courtroom 881 at The United States Courthouse, 2012 15<sup>th</sup> Street, Gulfport, Mississippi. The docket reflects, and the undersigned finds, that on March 8, 2018, the Court mailed a copy of [25] the order setting the hearing, to Plaintiff Britten G. Smith at his address of record in the George County Correctional Facility in Lucedale, MS, the address which Smith provided the Court on September 29, 2017 [21], and which remains his address of record on the docket of this case as of the date of this Report and Recommendation. The mail was returned as undeliverable on March 14, 2018, the envelope bearing a handwritten notation “paroled 12-15-17.” [28] Courtroom Deputy Clerk Sandra Ryan stated into the record that in response to the writ issued to the George County Correctional Facility to transport Smith for the scheduled hearing, Mississippi Department of Corrections records clerk Ashley Causey advised that Smith was paroled on December 15, 2017. Smith has filed no change of address since that time, and he did not appear for the hearing. The undersigned called Smith’s name three times in the courtroom and received no response. Deputy Clerk Ryan went into the hallway outside the courtroom and called Smith’s name three times and received no response. Defendants’ Attorney Jeffrey Bruni was present for the hearing at the appointed time.

Since Smith filed this lawsuit on June 7, 2017, the Court has repeatedly warned him that his failure to keep the Court apprised of his current address or to comply with any order of the Court might result in dismissal of his lawsuit. See Orders [3], [5], [7], [8], [11], [12], and [16].

**RECOMMENDATION**

The undersigned recommends that this case be dismissed due to Plaintiff's failure to keep his address current, failure to comply with the Court's order, and failure to appear for the hearing on April 11, 2018.

**NOTICE OF RIGHT TO APPEAL/OBJECT**

A party has 14 days after service of a copy of this Report and Recommendation to serve and file with the Clerk any written objections to it. *L.U.Civ.R.* 72(a)(3). An objecting party must specifically identify the findings, conclusions, and recommendations to which he objects; the District Court need not consider frivolous, conclusive, or general objections. Responses to objections must be filed within seven days after service, or the opposing party must notify the District Judge that he does not intend to respond. One who fails to timely file written objections is barred, except on grounds of plain error, from attacking on appeal any proposed factual finding or legal conclusion accepted by the District Court to which he did not object. *Douglass v. United Services Automobile Association*, 79 F.3d 1415, 1428-29 (5th Cir. 1996).

Signed this the 11<sup>th</sup> day of April, 2018.

/s/ Robert H. Walker

ROBERT H. WALKER  
UNITED STATES MAGISTRATE JUDGE